

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	CASE NO. 8:10CR164
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
JILL R. VANCE,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 85). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the absence of a role reduction in ¶ 26, arguing that she is entitled to a minimal role reduction. The objection will be heard at sentencing, and the burden is on the Defendant by a preponderance of the evidence.

The Defendant “objects” to the alleged over representation of her criminal history, arguing that Criminal History Category III is more appropriate than the assigned Criminal History Category V. This matter is properly raised as a motion for downward departure under U.S.S.G. § 4A1.3(b). It appears the motion may be raised, given the terms of ¶ 7(c) the plea agreement. The motion will be heard at sentencing.

IT IS ORDERED:

1. The Defendant’s objection to ¶ 26 will be heard at sentencing;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion

challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

5. The Defendant's motion for a downward departure (Filing No. 85) will be heard at sentencing.

DATED this 15th day of November, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge